

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

BRANDEN ROBERTS,

Plaintiff,

v.

No. CV 14-0069 KG/LAM

D. MARTINEZ,

Defendant.


ORDER DISMISSING CASE WITHOUT PREJUDICE

THIS MATTER is before the Court *sua sponte*. On January 14, 2015, the Court ordered Plaintiff to either file a response to Defendant's motion for summary judgment, or show cause why this case should not be dismissed. [*Doc. 33* at 2]. Plaintiff's response to the Court's order was due January 26, 2015, and no response has been filed. In the January 14, 2015 order, the Court cautioned Plaintiff that failure to comply with the Court's order may result in dismissal of Plaintiff's case without prejudice for failure to prosecute. *See* [*Doc. 33* at 1-2]. Therefore, the Court concludes that this case should be **DISMISSED without prejudice** for failure to prosecute. *See U.S. ex rel. Jimenez v. Health Net, Inc.*, 400 F.3d 853, 855 (10th Cir. 2005) ("[D]ismissal is an appropriate disposition against a party who disregards court orders and fails to proceed as required by court rules.") (citation omitted); *Olsen v. Mapes*, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003) (finding that Rule 41(b) permits courts to dismiss actions *sua sponte* for a plaintiff's failure to prosecute and/or comply with a court order); *Reed v. Bennett*, 312 F.3d 1190, 1195 (10th Cir. 2002) ("A district court undoubtedly has discretion to sanction a party for failing to prosecute or defend a case, or for failing to comply with local or federal procedural rules.")

(citation omitted); and *Link v. Wabash R.R. Co.*, 370 U.S. 626, 629-30 (1962) (“The authority of a court to dismiss sua sponte for lack of prosecution has generally been considered an ‘inherent power,’ governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.”)).

IT IS THEREFORE ORDERED, for the reasons stated above, that this case is hereby **DISMISSED without prejudice**.

IT IS SO ORDERED.



UNITED STATES DISTRICT JUDGE